

JERRY BARNETT)	
Claimant)	
VS.)	
)	Docket No. 233,253
KOCH-GLITSCH, INC.)	
Respondent)	
Self-Insured)	
AND)	
)	
CRAWFORD & COMPANY)	
Third-Party Administrator)	

Claimant alleges he injured his back while working for the respondent on March 17, 1998, either when he backed into a worktable or while performing repetitive lifting and bending activities. After work that evening claimant noticed the gradual onset of pain and stiffness in his low back and right hip, which then progressed for the next several days.

Respondent contends claimant has an eight-year history of back problems that follow him from job to job and he is now merely experiencing another flare-up of symptoms that are related to the natural progression of a chronic back ailment and totally unrelated to his work.

Claimant testified that he backed into the sharp corner of material laying on an adjacent worktable. He immediately notified his supervisor of the incident and complained that his work area was too small. He also testified about the onset of his pain but that he did not know whether it was caused by either backing into the table or the repetitive lifting and handling of materials at work. Before the incident on March 17, 1998, claimant had performed his job duties without problems for the two and a half months he had worked for the respondent.

After listening to both claimant and his supervisor testify, Judge Barnes found claimant's testimony persuasive and awarded him preliminary hearing benefits. The Appeals Board agrees with the Judge's analysis of the evidence and conclusion. Claimant's testimony is credible that he developed pain in his low back and hip after a day of repetitive bending, twisting, and lifting and after a day in which he backed into a worktable. It is reasonable to conclude that claimant's symptoms were caused by his work activities on March 17, 1998. Therefore, the Appeals Board finds that claimant sustained personal injury by accident arising out of and in the course of employment with the respondent.

As provided by K.S.A. 1997 Supp. 44-534a, the above finding is not binding but subject to modification upon a full hearing on the claim.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order dated May 15, 1998, entered by Administrative Law Judge Nelsonna Potts Barnes should be, and hereby is, affirmed.

IT IS SO ORDERED.

Dated this ____ day of July 1998.

BOARD MEMBER

c: Robert A. Anderson, Ellinwood, KS
Douglas C. Hobbs, Wichita, KS
Nelsonna Potts Barnes, Administrative Law Judge
Philip S. Harness, Director